

TAB J

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CYCLE-CRAFT CO., INC., d/b/a BOSTON HARLEY-DAVIDSON/BUELL, Plaintiff	x	
vs.	x	CASE NO.
	x	04 11402 NMG
HARLEY-DAVIDSON MOTOR COMPANY, INC., and BUELL DISTRIBUTION COMPANY, LLC, Defendants	x	

VIDEOTAPED DEPOSITION of MICHAEL BLOOM,
taken pursuant to the applicable provisions
of the Federal Rules of Civil Procedure,
before Jill Kourafas, Certified Shorthand
Reporter and Notary Public in and for the
Commonwealth of Massachusetts held at the
Law Offices of Bingham McCutchen,
150 Federal Street, Boston, Massachusetts,
on May 2, 2005, commencing at 3:10 p.m.

REPORTERS, INC.
GENERAL & TECHNICAL COURT REPORTING
23 MERRYMOUNT ROAD, QUINCY, MA 02169
617.786.7783/FACSIMILE 617.786.7723

1 Q. what was the commission?

2 A. well, it varied with bike to bike, but at
3 that time, it wasn't right away that I got
4 that part of the package.

5 Are you asking only in July?

6 Q. Well, let's start with that.

7 while you were still in the '03
8 model year, were you getting commissions?

9 A. No, just salary.

10 Q. And were you offered any commission or bonus
11 based on any performance in July of '03 that
12 you recall?

13 A. No, I was not offered any.

14 Q. I understand.

15 Did you purchase a new motorcycle
16 from Cycle-Craft in July of '03?

17 A. No, I did not.

18 Q. Did Elaine, your wife, purchase a new
19 motorcycle from Cycle-Craft in July of '03?

20 A. No, she did not.

21 Q. Did Lissa, your daughter, purchase a new
22 motorcycle from Cycle-Craft in July of '03?

23 A. No, she did not.

24 Q. Did your son Matt purchase a new motorcycle

1 from Cycle-Craft in July of '03?

2 A. No, he did not.

3 Q. Did any of you have a contract or agreement
4 to buy a new motorcycle from Cycle-Craft in
5 July of '03?

6 MR. REHNQUIST: Object to form.

7 Q. You can answer the question.

8 A. We didn't have a contract; we had a verbal
9 understanding.

10 Q. Okay. Did you sign a bill of sale for a
11 motorcycle for your purchase from
12 Cycle-Craft in July of '03?

13 A. No.

14 Q. Did your wife Elaine sign a bill of sale to
15 buy a motorcycle from Cycle-Craft in July of
16 '03?

17 A. No.

18 Q. Did your daughter Lissa sign a bill of sale
19 to buy a new motorcycle from Cycle-Craft in
20 July of '03?

21 A. No.

22 Q. Did your son Matt sign a bill of sale to buy
23 a new motorcycle from Cycle-Craft in July of
24 '03?

1 A. No.

2 Q. Did you or your wife or your son or your
3 daughter fill out any forms or paperwork for
4 the purchase of a new motorcycle from
5 Cycle-Craft in July of '03?

6 A. I did not, my wife did not, my son did not
7 and, to the best of my recollection, my
8 daughter did not.

9 Q. Did any of you put down a deposit for a new
10 motorcycle to be purchased from Cycle-Craft
11 in July of '03?

12 A. I did not.

13 Q. To your knowledge, did your wife, daughter
14 or son?

15 A. Not that I'm aware of.

16 Q. Now, what was the understanding that you
17 said was reached? You said there was some
18 understanding regarding a purchase of a
19 motorcycle?

20 A. Yeah, that we could purchase motorcycles at
21 a discounted rate, and also that there's no
22 guarantee we are going to get those
23 motorcycles 'cuz if they were sold to a
24 retail customer, they were gonna be sold.

1 Q. So, is this an offer that Mr. Buchbaum made?

2 A. Yes.

3 Q. And was it made to you as well as others?

4 A. Yes, it was.

5 Q. Was it made in or around July of '03?

6 A. Yes, it was.

7 Q. Do you remember what the discounted rate
8 was?

9 A. We were told it would be above -- a little
10 above cost. To me, I didn't know what that
11 was at the time, but it sounded like a
12 fantastic deal.

13 Q. Did you promise anyone that you would
14 purchase a motorcycle in July of '03?

15 A. What do you mean by that?

16 MR. REHNQUIST: Object to the
17 form.

18 Q. Did you promise Mr. Buchbaum that you would
19 buy a motorcycle in July of '03?

20 A. I would buy the motorcycles if they were
21 available to me. I never promised him,
22 because the understanding was that they
23 could be sold and we couldn't get them. But
24 if they were not sold, we were gonna get

1 them at a better rate.

2 Q. At the end of the model year?

3 A. The time was never discussed when it was
4 gonna happen.

5 Q. Why did you not buy a motorcycle?

6 A. They were sold. Your question is why didn't
7 I buy a motorcycle?

8 Q. Yes.

9 A. I bought one in '04.

10 Q. Why didn't you buy one in July of '03?

11 A. Because that motorcycle was sold.

12 Q. Which motorcycle was that?

13 A. The one that I had for myself.

14 Q. And can you describe it?

15 A. It was probably a Road Glide, I'm not sure
16 exactly the model. If it was a Road Glide,
17 I would have bought that, if it was a Road
18 King, I would have bought that. I would
19 have bought any big bike, any FL.

20 Q. Did you have a particular one picked out for
21 yourself?

22 A. I don't recall that. I'm not sure.

23 Q. Did your wife Elaine indicate to anyone at
24 the dealership that she would buy a

1 motorcycle from the dealership?

2 A. No.

3 Q. Did your daughter Lissa indicate to anyone
4 at the dealership that she would buy a
5 motorcycle from the dealership?

6 MR. REHNQUIST: Objection;
7 foundation.

8 Q. You can answer.

9 A. My daughter was going to take the course to
10 buy a motorcycle, so --

11 Q. Take the course?

12 A. There's a Rider's Ed. course, they call it.
13 She wanted to learn how to ride a motorcycle
14 and she was going to buy a motorcycle and
15 she was talking about several different
16 models and coming to me.

17 But what was your question, did
18 she --

19 Q. whether she indicated to anyone at the
20 dealership that she would buy a motorcycle.

21 A. You'd have to -- I don't know. I mean, she
22 indicated to me she would, but I don't know
23 anyone else in the dealership that she
24 talked with.

1 Q. How about your son Matt, did he indicate
2 that he would buy a motorcycle from the
3 dealership?

4 A. Absolutely.

5 Q. Who did he say that to?

6 A. To me.

7 Q. Did he pick one out?

8 A. I picked it out, but again, I don't know
9 what the model was, because he's 6-foot-7,
10 6-foot-8, so it would have to be a big
11 motorcycle, it wouldn't be a Sportster or a
12 little bike.

13 Q. Did he fill out any paperwork committing to
14 buy a motorcycle?

15 A. Not that I know of, no.

16 Q. Did you?

17 A. No.

18 Q. And, to your knowledge, your wife and
19 daughter did not either fill out --

20 A. I already told you that, no, they did not.

21 Q. Do you know what an "SWR Form" is?

22 A. Yes.

23 Q. What is it?

24 A. It's a paper that once a motorcycle is sold,